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1 UNITED STATES DISTRICT COURT  
1 SOUTHERN DISTRICT OF NEW YORK

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3 BENJAMIN SCHWARZ, et al,

4 Plaintiffs,

5 v.

09 CV 09346 (PAE)

6 THINKSTRATEGY CAPITAL  
7 MANAGEMENT LLC, et al,

8 Defendants.

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New York, N.Y.  
April 30, 2015  
9:45 a.m.

11 Before:

12 HON. PAUL A. ENGELMAYER,

13 District Judge

14 APPEARANCES

15 GISKAN SOLOTAROFF ANDERSON & STEWARD LLP  
16 Attorneys for Defendants  
16 BY: JASON L. SOLOTAROFF

17  
18 CHETAN KAPUR  
18 Pro Se

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1 MR. KAPUR: Your Honor, I just wanted to give some  
2 background about Thinkstrategy Capital Management's  
3 comprehensive managed account program. We had a comprehensive  
4 managed account program since inception at Thinkstrategy  
5 Capital Management. We started our business by way of managed  
6 account. Before we had any funds, we had managed accounts. As  
7 part of our managed account program, your Honor, we regularly  
8 set up structures for clients, whether it be for their estate  
9 needs or their business needs or their investment needs or  
10 their asset protection needs. We set up structures for  
11 clients. We set up these structures in our name as though it  
12 is for us and then transferred these structures to the client,  
13 which was standard procedure, and it was per the client's  
14 request.

15 The client then opened bank accounts and funded these  
16 accounts, and we did a managed account on behalf of the client  
17 with power of attorney or as per the managed account agreement.

18 Besides for providing structuring to clients, we also  
19 provided administrative benefits and any sort of  
20 administrative-related items that the clients needed related to  
21 investments or otherwise, was also available as part of our  
22 managed account program.

23 As part of the managed account program, we provide  
24 customized portfolios. We provided strategies similar to those  
25 or same as those we provided within the funds, with customized

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1 solutions for principal protection, for leverage, for foreign  
2 exchange hedging. Towards the latter part of the existence of  
3 Thinkstrategy, we also created an entity called Alternative  
4 Investment Management Advisory Group, and we moved our managed  
5 account program into -- we moved the product into a separate  
6 corporate entity called Aim Advisory Group, LLC, which was a  
7 managed account platform. A managed account platform, as well,  
8 offered all the products of the comprehensive management  
9 account program, as well as standardized managed account  
10 products. That was an entity that eventually did not generate  
11 any revenues. Toward the end of 2011, we wound down that  
12 entity.

13 Having provided just a cursory background on our  
14 managed account program, I also have just some documents out  
15 here and some exhibits generally to address what I'm going to  
16 say.

17 THE COURT: Sure. Do you have a copy for  
18 Mr. Solotaroff, as well as for me and my law clerk?

19 MR. KAPUR: Yes. Very good.

20 THE COURT: I'm going to ask Ms. Hummel to mark this  
21 package as Defendant's Exhibit 1, April 30th, 2015. I'll note  
22 for the record, though, that there is a cover note on the  
23 documents that Mr. Kapur has handed up, which indicates that  
24 there are five exhibits here, numbered 1 through 5.

25 One moment, Mr. Kapur.

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1 (Pause).

2 This will be Defendant's Exhibit A. Ms. Hummel

3 corrects me.

4 Thank you.

5 Go ahead, Mr. Kapur.

6 MR. KAPUR: Yes, your Honor. I just want to talk a  
7 little bit more about the structuring as it relates to the  
8 managed account program. Clients used to come to us and say,  
9 set up XYZ foundation or trust for their estate planning needs  
10 or set up XYZ business for their business needs or XYZ  
11 investment structure for their investment asset protection  
12 needs. We went about and contacted trust companies, law firms,  
13 registered agents in the jurisdictions that they wanted to  
14 create the particular structure, and we created the structure  
15 for them and then transferred the structure to them. So it was  
16 similar to the way that a law firm or trust company might set  
17 up something at the registrar in their name and transfer it to  
18 us. We, by the same token, created on behalf of our clients  
19 and then transferred the structure to our clients. It was  
20 standard practice in the managed account field. It is what our  
21 clients' wanted because it allowed them to avoid weeks and  
22 months of KYC at the law firm or trust company.

23 I was talking about a managed account programs and the  
24 structuring in a managed account program. We set up structures  
25 for estate planning purposes, for business purposes, for

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1 investment purposes at these law firms, at these trust  
2 companies, at the request of our client and on behalf of our  
3 client as though it was for us so that -- you know, our clients  
4 did not want to get involved in weeks and months of KYC with  
5 the law firm or the trust company. They wanted us to set up  
6 the structure and transfer the structure over to them. That  
7 was standard proceed in the managed account field, your Honor,  
8 and it was always what our clients preferred. The law firm or  
9 the trust company used to set up the company in their name with  
10 the registrar as if it was for them, and they would transfer it  
11 to us. So it's a similar kind of procedure that the law firm  
12 or the trust company did for us, we did for our clients:

13 THE COURT: I understand what you have said so far,  
14 but I will need you to relate this to what Mr. Solotaroff has  
15 said. It doesn't seem responsive to what he is raising.

16 MR. KAPUR: Yes, your Honor.

17 Mr. Solotaroff mentioned a lot of different things.

18 Firstly, in Exhibit 1, you know, he asked me about  
19 managed accounts, and I said that yes, it is possible that we  
20 set up accounts in Switzerland for managed accounts. Other  
21 than managed accounts that I opened? Yes? And I said no. I  
22 believe that testimony to be accurate because we did set up  
23 accounts wherever our clients wanted it, whether it be in a  
24 Swiss-based bank, whether it be in the U.S. branch of a  
25 Swiss-based bank, wherever it be with U.K. branch or in the

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1 Swiss branch. Wherever they wanted an account opened, we would  
2 open for them at one or more banks or brokerages per the needs  
3 of our clients in the managed account program.

4 Moving forward to Mr. Solotaroff's exhibits, he put  
5 several exhibits from the law firm of Mossack Fonseca, which I  
6 believe provide trust services. This was one of several law  
7 firms and trust companies that we worked with as part of our  
8 managed account program, and they were conducting standard KYC  
9 on their clients. In phase 1 of our managed account program,  
10 we used to set up the structure in our name as though it was  
11 for us. Either which way, these law firms and trust companies  
12 have to conduct KYC on the person they're dealing with and the  
13 person that is paying the invoices. Whatever KYC that they  
14 had, it was for the purpose of setting up the structure for  
15 them to complete the KYC, which often took from weeks  
16 to months. As you can see from the emails, they extend across  
17 a couple of months. That was one of the key reasons that  
18 clients wanted us to create the structure and then transfer the  
19 structure over to them. In phase 2, if there were any  
20 amendments to be made, they would be made at that point in  
21 phase 2. Phase 3 related to the funding of the account with  
22 the client, used to fund this structure. Phase 4 was when we  
23 did a managed account for a power of attorney, if they wanted  
24 to do a managed account.

25 Your Honor, Mr. Solotaroff mentioned the fact that  
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1 Ms. Rai sold her car, provided testimony of Ms. Rai's letters  
2 and her in-court testimony in Exhibit 1, Defendant's Exhibit 1,  
3 noting -- which is also an SEC Plaintiff Exhibit 24, submitted  
4 by Mr. Roessner of the SEC, where Ms. Rai says that when I sold  
5 my car in March 2013, the proceeds from the sale were used to  
6 partially pay down my bank, credit card, and personal loans.  
7 So Ms. Rai is noting to the Court the fact that she had bank,  
8 credit card, and personal loans, and that she used those  
9 proceeds largely to pay down those loans partially.

10 Further, Exhibit 1, in court testimony as it relates  
11 to that, as well as in Exhibit 2, provides the loan agreement  
12 that Manju Kapur had with Bina Rai. And Bina Rai already  
13 mentioned this loan several times in her in-court testimony.  
14 And when she sold the car, she paid approximately \$11,500 off  
15 that loan back to Manju Kapur, including I believe some  
16 additional installments that Manju gave to Bina of  
17 approximately \$9,000.

18 As it relates to the Chase credit card bill, it is  
19 clear that that bill, your Honor, was paid by Manju Kapur and  
20 not Bina Rai. I had asked my mother several times if she could  
21 please pay my Chase credit card bill because it had been called  
22 in and was charging me extremely high interest rates. She said  
23 she was not in a position at that time to pay the Chase credit  
24 card bill, but when she had the cash flow available in her  
25 account, she would look into and see whether she would be

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1 willing and able to pay my Chase bill.

2       Once Ms. Rai sold her car and paid her loans at  
3 Citibank partially and credit card loans, as well as partially  
4 repay Manju Kapur, Manju Kapur was then in a cash flow position  
5 to help me out with my Chase credit card bill. Manju Kapur  
6 thereafter went ahead and paid my Chase credit card bill. I  
7 just felt it appropriate to ask my mother and my parents, who  
8 have substantial assets, to pay my Chase bill when it was  
9 called in as opposed to going to Bina, who had already extended  
10 herself extensively based on her sources of income. But had I  
11 gone to Bina, the Chase credit card bill would clearly be noted  
12 in her loan agreement, which it is not. It is noted on my  
13 mother's loan agreement because my mother is the one who paid  
14 the Chase credit card bill. Hopefully, that clarifies any  
15 confusion as it relates to that matter with testimony and  
16 letters from Ms. Rai.

17       Looking through Mr. Solotaroff's exhibits, in Exhibit  
18 Number 13, once again, both SEC and Mr. Solotaroff have noted  
19 some other structuring work with another firm, Asia City Trust.  
20 We had structuring with several law firms and several trust  
21 companies, not only the few that are mentioned by the SEC. The  
22 SEC mentions Asia City Trust, as well as, I believe, an  
23 International Kurasel Bank, which was all part of our managed  
24 account structuring work for our clients, but there were  
25 several other law firms, trust companies, and banks and

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1 brokerages that we work with as part of our managed account  
2 program at Thinkstrategy Capital, not just the ones mentioned  
3 by Mr. Roessner or present here today in these exhibits by  
4 Mr. Solotaroff. I think it is important that be noted.

5 Mr. Roessner claims in his recent submission to the  
6 Court that The Family and Children Charitable Foundation was  
7 set up after March 2010, where my former attorney apparently  
8 filed a motion to dismiss that was denied, but this was simply  
9 part of a managed account program structuring. Clearly, from  
10 Mr. Roessner's own exhibits, Asia City, as well as from First  
11 International Kurasel, are just two examples off structuring  
12 work we did for our managed account program prior to  
13 March 2010.

14 THE COURT: Tell me about The Family and Children  
15 Charitable Foundation.

16 MR. KAPUR: Your Honor, that was a part of what one of  
17 our clients wanted as part of the managed account program.

18 THE COURT: Who is your client?

19 MR. KAPUR: I don't know. I don't recall the client.  
20 Having spoken to Ms. Rai about her wires into her account, she  
21 did note to me that she did ask my brother, Kabir Kapur, for a  
22 loan.

23 THE COURT: You're talking about Ms. Rai?

24 MR. KAPUR: I am, your Honor.

25 THE COURT: I'm asking you about The Family and

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1 Children Charitable Foundation. Is it your testimony to me  
2 that that foundation was set up to benefit one of your clients?

3 MR. KAPUR: Several possibilities, your Honor.

4 THE COURT: No, no. You told me a moment ago it was a  
5 client.

6 MR. KAPUR: Generally, it was a client. I would  
7 consider whoever it was created for would be for a client, but  
8 I have a belief --

9 THE COURT: A client of Thinkstrategy?

10 MR. KAPUR: Correct.

11 THE COURT: Tell me how you know that.

12 MR. KAPUR: I don't -- the reason I believe that to be  
13 the case, your Honor, is for two reasons: On speaking with  
14 Ms. Rai about these loans back in 2010 or 2011, where she  
15 received two loans for approximately seventy four, seventy-five  
16 thousand dollars, I asked her who these loans were from, where  
17 did she get these moneys from. She noted she contacted my  
18 brother, Kabir, who has been in the private lending and  
19 consulting business for the past 15 years, and asked him for a  
20 loan, and he organized a loan through one of his private  
21 lending relationships. I'm just trying to connect --

22 THE COURT: When you say that The Family and Children  
23 Charitable Foundation was to benefit one of your clients, you  
24 don't mean it was to benefit your family, right? It was for a  
25 client that is completely independent of the Kapur family;

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correct?

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MR. KAPUR: Correct, your Honor.

THE COURT: What is your basis --

MR. KAPUR: That is my assumption.

THE COURT: You told me a moment ago of your belief that The Family and Children Charitable Foundation is to benefit one of your clients. I'm not interested in Ms. Rai. I'm interested in the foundation. Please answer my question --

MR. KAPUR: I'm trying --

THE COURT: Please don't interrupt me.

What is your basis for, as you put it, assumption that the foundation is to benefit a client of yours? There are emails that connect you to the foundation. I'm having difficulty understanding what you're trying to tell me.

MR. KAPUR: Yes, your Honor. Firstly, it is an item from five years ago, and I tried to think about who exactly, as part of our managed account program, this structure could have been created for. All I know is that it appears to be for a client. It appears to me that it very possibly could be a private lending relationship of my brother. My brother had numerous private lending relationships.

So the structure, having spoken to Ms. Rai on her loans and having recalled the fact that I did create a structure several years ago for one of my brother's private lending relationships, I'm assuming that the structure was,

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1 therefore, created for one of my brother's private lending  
2 relationships.

3 THE COURT: You told me a moment ago this had nothing  
4 to do with your family.

5 MR. KAPUR: Your Honor, it has to do with, not my  
6 family, but one of my family members' private lenders.

7 THE COURT: What is Mossfon, what is the Mossfon Trust  
8 Corporation?

9 MR. KAPUR: Your Honor, it is a trust company. It is  
10 part of the law firm -- there is a global law firm that we  
11 worked with, that we were referred to. As you can see from the  
12 emails of Mr. Roessner, we were referred to this law firm that  
13 does trust and structuring-related work. It was one of several  
14 law firms that we worked with and one of several trust  
15 companies we worked with.

16 THE COURT: There is one of the exhibits that  
17 Mr. Solotaroff submitted. It contains an exhibit. It is  
18 Exhibit 7, in which you express an intent to deposit something  
19 like six to seven million dollars in the Family and Children  
20 Charitable Foundation account. What does that relate to? Can  
21 you explain?

22 MR. KAPUR: That relates to our KYC.

23 THE COURT: KYC is "know your customer"?

24 MR. KAPUR: "Know your client."

25 THE COURT: Go ahead.

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1 MR. KAPUR: The law firms or trust companies always  
2 conducted KYC, which was "know your client" on the customer or  
3 client that they were dealing with. As an investment  
4 management company, they were required to conduct KYC on us,  
5 the people that we're dealing with. As I mentioned prior, our  
6 managed account program had four phases. The first phase of  
7 our program was to structure the product as though it was for  
8 us on behalf of the client in our name. And then we used to,  
9 in phase 2, transfer the product and structure to the client.  
10 We were in phase 1, going through the KYC of this trust  
11 company. You know, we offering, whether it be with the  
12 structuring company or the bank that we dealt with for managed  
13 account program purposes, personalized the managed accounts --  
14 well, for different reasons. Well, let me not go into that.

15 Just to kind of stay focused on the question, they  
16 were conducting KYC for us, and simply we were representing at  
17 that phase, in phase 1, that the structure was for us, but we  
18 were providing the funding amount on the account of the client.  
19 There is no way that my fund, which is --

20 THE COURT: Was Bina Rai a customer of Thinkstrategy?

21 MR. KAPUR: A customer, no.

22 THE COURT: She was not a client or customer of  
23 Thinkstrategy, correct, Bina Rai?

24 MR. KAPUR: No.

25 THE COURT: Can you explain to me why she received, at  
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1 least according to Exhibits 18 and 19, wires of approximately  
2 \$74,000 and \$72,000 from Mossfon, accompanied by notes  
3 referencing this Family and Children Foundation? Can you  
4 explain that to me?

5 MR. KAPUR: Having spoken to Ms. Rai, Ms. Rai noted to  
6 me that she had requested my brother, Kabir Kapur -- was in the  
7 private lending business and consulting business for the past  
8 15 years, by way of background -- for a loan. Kabir had noted  
9 to her that he is going to organize a loan for her from one of  
10 his private lending relationships. Accordingly, these are  
11 representing those loans. I believe the private lender  
12 happened to use Mossack Fonseca law firm. It is a global law  
13 firm known for providing legal, as well as trust-related  
14 services, as well as escrow, accounting, and other professional  
15 services. It seemed that the lender happened to use Mossfon  
16 escrow services as part of providing this loan.

17 THE COURT: Does The Family and Children Charitable  
18 Foundation exist to benefit you?

19 MR. KAPUR: No, your Honor.

20 THE COURT: Have you ever received any money directly  
21 from it?

22 MR. KAPUR: No, your Honor.

23 THE COURT: Have you ever received any money from  
24 somebody who themselves had recently been paid money from that  
25 foundation?

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1 MR. KAPUR: Could you repeat the question, your Honor?

2 THE COURT: Would the court reporter please read my  
3 question back.

4 (Record read)

5 MR. KAPUR: I have recently received money from  
6 anybody who has recently received money from that foundation?

7 No, your Honor, but I would just qualify that Ms. Rai  
8 did give me loans in general. The source of her loans was a  
9 combination of factors of her income, her savings, as well as  
10 her borrowings. So Ms. Rai's source of funding, if you will,  
11 not only for the loans that she provided me, but a general  
12 source of funding for her personal expenses, her business  
13 expenses, paydown of credit cards when she felt appropriate,  
14 and providing me loans was three sources. One would be income.  
15 Another would be savings. And third would be her borrowings.

16 THE COURT: Apart from the previous testimony that  
17 Ms. Rai gave before me, are you aware of any other source of  
18 income she has, apart from what was covered in her prior  
19 testimony?

20 MR. KAPUR: Prior testimony?

21 THE COURT: You were here for her testimony; correct?

22 MR. KAPUR: Yes, your Honor.

23 THE COURT: Apart from what she testified to, are you  
24 aware of any other source of income that she has?

25 MR. KAPUR: No, your Honor, I'm not aware other than  
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1 what I believe to be the case, as I mentioned, and what she  
2 might have mentioned when she was in court.

3 THE COURT: Is there anything else you want to say to  
4 me today?

5 We're going to be scheduling a hearing, at which I  
6 expect to hear testimony from you, but is there anything  
7 further you want to say to me today to explain the transactions  
8 that the SEC and Mr. Solotaroff and SEC are drawing to my  
9 attention?

10 MR. KAPUR: Just give me a minute.

11 THE COURT: Of course.

12 MR. KAPUR: Talked about the managed account program  
13 and KYC --

14 THE COURT: Don't speak to yourself. Speak to me.  
15 But, please, the court reporter doesn't know whether to write  
16 down when you're talking to yourself.

17 MR. KAPUR: I would just note, your Honor, that as it  
18 relates to Exhibit 12 that I only recently had a conversation  
19 with Ms. Rai once Mr. Roessner submitted these exhibits to get  
20 explanation on those loans from what appear to be a company  
21 that has the same name as the company that we did the  
22 structuring work at. I will note that it is very possible that  
23 because my brother has several private lending relationships,  
24 it might be the same structure, it might also be a similarly  
25 named structure but of a different private lender of my

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1 brothers. One family -- because my brother, several of his  
2 private lending relationships are family groups who might know  
3 each other and know of each other, and they might be using the  
4 same name. However, the structures might be completely  
5 different. The structure that Ms. Rai is getting the loan from  
6 might be in a different jurisdiction, it might have been set up  
7 by a different law firm. It might have a totally different  
8 purpose or structural objective that could be charitable and  
9 not private.

10 The CHIPS data that Mr. Roessner submitted in his  
11 Excel spreadsheet where he notes in his recent submission that  
12 he redacted some information and he changed the spacing of the  
13 information on CHIPS, the one issue I have when going through  
14 this data is the fact that when I see Ms. Rai's bank  
15 statements, it shows money coming from Deutsche Bank and from  
16 HSBC U.S. When I look at the Mr. Roessner's wire instruction,  
17 it shows moneys are going from Bank Vontobel to HSBC London.  
18 That seems like a major disconnect to me. I understand what  
19 Mr. Roessner is trying to theorize, and I feel that's a  
20 possibility, but it is also very possible that that lender does  
21 not have an account at Bank Vontobel or possibly could.

22 I would also note that the Family and Children  
23 Charitable Foundation, because of my recollection of having set  
24 up the structure for one of my brother's private lenders a  
25 while back, as well as my conversation with Rai, I believe it

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1 to be and I assume it to be a structure that was set up for one  
2 of my brother's private lenders, but it may not be the same  
3 lender as the one loaning moneys to Ms. Rai. It could also  
4 possibly be a structure that we set up for a client who knows  
5 of my brother's private lenders or entities.

6 THE COURT: Anything further you would like to say at  
7 this juncture? I'm not requiring you to do so. I'm giving you  
8 an opportunity to explain.

9 MR. KAPUR: Yes, your Honor.

10 I also see an Exhibit 14 where there's some  
11 communication as it relates to a managed account at Bank  
12 Sarasin. I will also note that when we dealt with the  
13 day-to-day team at the bank for our managed accounts, we often  
14 personalized assets and often give an optimistic view as part  
15 of our general procedure to receive better servicing from the  
16 bank. We often, doing several managed accounts and small  
17 managed accounts, did not receive the type of servicing we  
18 needed to meet the demands, the very reasonable demands of our  
19 client. They wanted complete, accurate, timely, and  
20 comprehensive reporting on their moneys, and often we took  
21 advantage of the fact that the bank didn't know who the owners  
22 of the accounts were. They often assumed that the people that  
23 we were dealing with were the owners, and we even gave that  
24 impression and emphasized the fact that we were owners to try  
25 and receive better servicing.

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1 I already mentioned that as part of a comprehensive  
2 managed account program we provided both structuring and  
3 administrative services to any managed account client.

4 And I would also note that I understand  
5 Mr. Solotaroff's theory that CCO, Limited, which is something  
6 he asked me about last time on a Wachovia Bank statement, which  
7 was one of umpteen Wachovia bank statements that have very  
8 large amount transactions that we conducted at Thinkstrategy  
9 Capital, I did not recollect what the buyer related to. There  
10 were several possibilities, though, that we discussed from it  
11 being an error reversal, as well as the possibility that that  
12 wire related to payment for services rendered by a service  
13 provider or possibly even could have been a rebate to an  
14 institutional client. But I didn't have -- being that the item  
15 was related to one of our several counter parties, we worked  
16 with hundreds, if not thousands, of counter parties from fund  
17 investors to managed account clients to institutional advisors  
18 to retail advisors to potential clients, we worked with  
19 hundreds and thousands of counter parties, so I did not  
20 recollect at the time specificity of the details of that  
21 transaction. I know Mr. Solotaroff is trying to connect that  
22 client name with the client name that is similar in this email.  
23 And while his theory might be a possibility, I also feel it is  
24 possible that the CCO mentioned in this email might be a Dag  
25 name for an account of a totally different structure because

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1 clients often gave a Dag name of a total different structure.  
2 CCO out here could be CCO, Inc. it could be CCO, LP. It could  
3 be CCO Corporation. It could be CCO-whatever. And most  
4 certainly, the bank had clients with similar names. And we, at  
5 Thinkstrategy, definitely had clients with similar names. I  
6 put that possibility out there to say that the connection that  
7 Mr. Solotaroff made might not be accurate.

8 THE COURT: Thank you.

9 Mr. Solotaroff, is there anything further you want to  
10 say today?

11 MR. SOLOTAROFF: Not today, Judge.

12 THE COURT: I will be back in five minutes to schedule  
13 a final hearing and with some specifications I want to set out  
14 about that.

15 (Recess)

16 THE COURT: Mr. Kapur, I'm going to be issuing an  
17 order later today, and I want to make sure that we have current  
18 contact information for you, to assure that it gets to you.

19 I take it you have not registered for electronic  
20 filing, for ECF, in this case; correct?

21 MR. KAPUR: Correct, your Honor.

22 THE COURT: What is your current email address?

23 MR. KAPUR: CKAPUR10@gmail.com.

24 THE COURT: Do you check that every day?

25 MR. KAPUR: I check it regularly, your Honor.

SOUTHERN DISTRICT REPORTERS, P.C.

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